

REFERENCE TITLE: developmental disabilities; service providers

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1327

Introduced by
Senators Johnson, Blendu; Bee; Representative Anderson

AN ACT

AMENDING SECTION 36-557, ARIZONA REVISED STATUTES; RELATING TO DEVELOPMENTAL
DISABILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-557, Arizona Revised Statutes, is amended to
3 read:

4 36-557. Purchase of community developmental disabilities
5 services; application; contracts; limitation; rate
6 adjustments; removal of clients

7 A. The department may use state and federal funds appropriated or
8 otherwise available to it for this purpose to assist in the establishment and
9 maintenance of local developmental disability services by public or private
10 nonprofit or profit agencies. The funds may be expended as professional fees
11 for service, in contracts for advancement or reimbursement or in another
12 appropriate manner and may be used for any purpose necessary to the provision
13 of local developmental disability services. They may not be used for
14 departmental salaries, care of developmentally disabled persons by the
15 department or any other purpose within the department itself, but they may be
16 used for consultation to the department in the interest of local programs.

17 B. A local public or private nonprofit or profit agency providing or
18 intending to provide community developmental disability services and desiring
19 to contract with the department for the furnishing of such services shall
20 submit a program plan and budget to the department on the forms and in the
21 manner required by the department. If the program meets departmental
22 standards and is consistent with the state plan of the department and the
23 individualized service program plan of the client, the department,
24 notwithstanding the provisions of title 41, chapter 23, relating to
25 procurement and including services pursuant to section 36-2943, may contract
26 with that agency for such services as are required and upon such terms and
27 conditions as the department shall require. The contracts shall provide that
28 the provider of services shall be subject to a continuing program evaluation
29 by the department through progress reports, expenditure reports, program
30 audits or other appropriate evaluation techniques and to assure that the
31 provider of service is in continued compliance with the terms of the contract
32 and the department's community developmental disability service standards and
33 requirements.

34 C. Contracts between the department and a school district or districts
35 shall be subject to approval by the department of education.

36 D. This article does not make the department or the state responsible
37 for funding programs beyond the limits of legislative appropriation for the
38 programs. This article does not require a provider of services to provide
39 unreimbursed services to the department or its clients.

40 E. Contracts to provide community developmental disability services
41 shall require that:

42 1. The contractor is obligated to operate a program or service in
43 strict accordance with the standards adopted for such program or service by
44 the department.

1 2. If state funding is provided for a particular program the
2 contractor, to the extent of positions available ~~which~~ THAT are being
3 purchased by the department, shall provide services to a developmentally
4 disabled client who has been evaluated and placed by the department.

5 3. All contractors must carry liability insurance in amounts approved
6 by the risk management section of the department of administration and file
7 proof of such insurance with the risk management section. The director may
8 waive such requirement on a case by case basis upon a finding that insurance
9 for such program or service is not practicably available at affordable rates
10 and that it is necessary that the program or service be provided by the
11 contractor.

12 4. All clients enrolled in programs shall have all the same specified
13 rights as they would have if enrolled in a program operated directly by the
14 state.

15 5. Except for emergency placement pursuant to section 36-560,
16 subsection N, payment shall not be made based on program services provided to
17 a client if a placement evaluation has not been made, and no individual
18 program has been prepared and when, upon such placement evaluation, no
19 recommendation has been made to enroll the client in the particular program
20 service.

21 F. This article does not require a contracted agency to provide
22 unreimbursed services to the department or a client of the department.

23 ~~F.~~ G. Contracts for the purchase of residential care services other
24 than those community residential settings licensed pursuant to this chapter
25 shall, in addition to other general requirements applicable to purchase of
26 care contractors:

27 1. Provide for mandatory inspection by the department every two years
28 for facilities other than group homes.

29 2. Provide for mandatory monitoring by the department for health,
30 safety, contractual and programmatic standards at least every six months.

31 3. Provide for mandatory investigation by the department in response
32 to complaints within ten working days, except that in those instances ~~which~~
33 THAT pose a danger to the client, the department shall conduct the
34 investigation immediately. Health and safety complaints related to group
35 homes shall be referred to the department of health services on receipt. The
36 department of health services shall share all incident reports related to
37 health and safety with the division of developmental disabilities.

38 4. Except for group homes licensed by the department of health
39 services, specify the health and safety and sanitation codes and other codes
40 or standards applicable to the facility or to the operation of the facility
41 by the contractor other than group homes.

42 5. Provide for mandatory periodic reports to be filed by the provider
43 contractor with the department with respect to the operation of the facility.

1 6. Provide that the facility and the books and records of the facility
2 and of the provider are subject to inspection at any time by employees of the
3 department or designees of the department.

4 7. Provide that parents and guardians of developmentally disabled
5 persons residing at the facility, members of the developmental disabilities
6 advisory council, ~~and~~ and members of other recognized and ongoing advocacy
7 groups for developmentally disabled persons may inspect the facility at
8 reasonable times.

9 ~~G.~~ H. Contracts for purchase of residential care services shall
10 require a community residential setting, as defined in section 36-551, to be
11 licensed pursuant to this chapter other than group homes licensed by the
12 department of health services.

13 ~~H.~~ I. The division shall ensure that all contracted developmental
14 disabilities service providers rendering services pursuant to this chapter
15 are reimbursed in accordance with title XIX of the social security act.

16 ~~I.~~ J. Contracts for client services issued by the department shall
17 include language outlining the provisions for a grievance and appeal
18 procedure. The director shall provide notice to providers not less than
19 thirty days prior to the issuance of an amendment to a qualified vendor
20 agreement. Beginning September 1, 2006, the decision of the director
21 regarding qualified vendor agreement amendments may be appealed pursuant to
22 title 41, chapter 6, article 10. The grievance process applicable to these
23 contracts shall comply with title XIX requirements.

24 ~~J.~~ K. As a condition of contracts with any developmental disabilities
25 service provider, the director shall require terms that conform with state
26 and federal laws, title XIX statutes and regulations and quality
27 standards. The director shall further require contract terms that ensure
28 performance by the provider of the provisions of each contract executed
29 pursuant to this article.

30 ~~K.~~ L. The division shall establish a rate structure that ensures an
31 equitable funding basis for private nonprofit or for profit agencies for
32 services pursuant to subsection B of this section and section 36-2943. **TO**
33 **ENSURE EQUITABLE RATES, IF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM**
34 **ADMINISTRATION PROVIDES FOR A CAPITATION RATE INFLATIONARY INCREASE TO HOME**
35 **AND COMMUNITY BASED SERVICES, THE DIVISION'S RATE STRUCTURE SHALL PROVIDE THE**
36 **SAME AMOUNT FOR STATE-ONLY SERVICES.** In each fiscal year, the division shall
37 review and adjust the rate structure based on ~~the provisions of~~ section
38 36-2959. A rate book shall be published and updated by the division to
39 announce the rate structure that shall be incorporated by reference in
40 contracts for client services.

41 ~~L.~~ M. he division shall disclose to a service provider in the
42 individual program plan defined by section 36-551 any historical and
43 behavioral information necessary for the provider to be able to anticipate
44 the client's future behaviors and needs.

1 N. A PROVIDER CONTRACTING PURSUANT TO THIS SECTION MAY REMOVE A STATE
2 CLIENT WITH A DEVELOPMENTAL DISABILITY FROM ANY CONTRACT PROGRAM IF THE
3 PROVIDER BELIEVES THAT THE CLIENT MAY BE AT RISK OF ABUSE, NEGLECT OR
4 MISTREATMENT OR THAT THE CLIENT MAY ABUSE ANOTHER PERSON IN THE PROGRAM. THE
5 PROVIDER MUST NOTIFY THE FAMILY OR GUARDIAN AND THE DIVISION AT LEAST FIFTEEN
6 DAYS BEFORE TAKING THAT ACTION OF THE DIVISION'S NEED TO RELOCATE THE CLIENT.
7 THE DIVISION MUST RESPOND WITHIN THIS FIFTEEN DAY PERIOD. IF THE DIVISION
8 REFUSES TO REMOVE THE CLIENT, THE STATE MUST NOTIFY THE PROVIDER IN WRITING
9 OF ITS REASONS. THE PROVIDER MAY APPEAL THE DIVISION'S DECISION
10 ADMINISTRATIVELY.